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## MEMO ENDORSED

October 14, 2010

### VIA FACSIMILE

The Honorable Kimba M. Wood  
United States District Judge  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Sutherland v. Ernst & Young LLP* (No. 10-CV-3332 (KMW))

Dear Honorable Judge Wood:

Ernst & Young LLP respectfully requests modification of the case schedule pending resolution of its motion to dismiss, or in the alternative, stay proceedings and compel arbitration.

The Court's September 16, 2010 order requires Ernst & Young to conduct discovery concerning plaintiff's expert by October 23, 2010, and file its expert report by November 1, 2010. This discovery would unnecessarily consume the parties' time and expense should the pending motion be granted. To avoid potentially unnecessary discovery, Ernst & Young proposes that the deposition of plaintiff's expert be completed within 21 days after plaintiff files her motion for class certification (currently due November 19, 2010) and that plaintiff's deposition of Ernst & Young's expert be completed within 21 days after Ernst & Young files its opposition to the class motion (currently due December 17, 2010). This proposed sequence of events is the same as in the California lawsuit. In the alternative, Ernst & Young requests that all the dates in the September 16 order be continued 30 days, so that the parties need not engage in potentially unnecessary discovery or other proceedings while the arbitration motion is pending.

Requests  
denied.  
KMW

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We have conferred with plaintiff's counsel, who does not consent to either modification of the schedule.

Respectfully submitted,

*Daniel L. Nash*

Daniel L. Nash  
Estela Díaz

cc: Max Folkenflik, Esq. (via e-mail)

*The Court declines to alter  
the existing schedule.*

SO ORDERED: 10/18/10

*Kimba M. Wood*  

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KIMBA M. WOOD  
U. S. D. J.